

**REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and the following remarks are presented for the Examiner's consideration.

Claims 1-3 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,205,405 to Pouvreau (hereinafter "Pouvreau"). For the following reasons the rejection is respectfully traversed.

Every limitation of claim 1 is not taught by Pouvreau, as required to support a rejection under 35 U.S.C. 102(b). In particular, with reference to claim 1, Pouvreau does not teach a "means for measuring a signal across the auxiliary winding," as required. The examiner cites the rotational speed measurement unit (18) as the means for measuring a signal across the auxiliary winding. Applicants respectfully submit that the disclosure of the unit (18) in Pouvreau does not meet the required claim limitations. Applicant acknowledges that since the subject limitations are so-called "means plus function" limitations, known equivalents to the means disclosed in the specification should be considered to anticipate the claimed limitations.

In the instant application the disclosed structure that serves as the claimed means for measuring a signal across the auxiliary winding is the control unit (P), which is connected to the auxiliary winding (L2) of a motor. Presumably, in forming the present rejection the Examiner has considered the speed measurement unit (18) to be an equivalent of the control unit (P) in the instant application. Applicant respectfully submits that the unit (18) taught in Pouvreau is not an equivalent of the control unit (P) that would satisfy the limitations of the claimed "means," since there is not teaching that it performs the stated function of "measuring a signal across an auxiliary winding." Moreover, it is respectfully pointed out that Applicant has not merely claimed speed measurement function of the control unit (P) in claim 1, but has specifically required that some means is provided to take a measurement of a signal from an auxiliary winding. Pouvreau does not even teach that its motor has an auxiliary winding. Therefore, since no means for measuring a signal across an auxiliary winding is taught in the cited reference, claim

1 is not anticipated by Pouvreau, and thus the rejection cannot stand. Likewise, since claims 2 and 3 depend from claim 1, they are not anticipated by the teachings of Pouvreau for the same reasons as discussed above.

Further, with reference to claim 2, Pouvreau does not teach "an electronic speed control for the motor by briefly setting the speed control to maximum," as required. Pouvreau relates to a three-phase motor (col. 2, lines 63-65) with a frequency converter to change the rotational speed (col. 3, lines 10-15). The rotational speed is measured by a sensor (e.g. a Hall-effect sensor is mentioned col. 3, lines 53-65). There is no household current involved. The claimed invention is a household current (i.e. single-phase) motor for use with a fixed frequency. In the disclosed embodiment, the rotational speed is controlled by a phase delay power controller, and no separate sensor for rotational speed. The maximum rotational speed discussed in Pouvreau col. 5, lines 54-56 relates to the maximum absolute speed compatible with the use as a centrifuge, not to the maximum speed obtained for a full supply from a phase delay power controller. These two speeds have absolutely no relation to each other. Thus, based on the meaning of the limitation "maximum speed" as it would be understood by one of ordinary skill in the art, the teaching of the maximum compatible speed in Pouvreau does not anticipate this limitation of claim 2.

Claims 4-6 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,181,099 to Binstock (hereinafter "Binstock"). For the following reasons, the rejection is respectfully traversed.

Every limitation of claim 4 is not taught by Binstock, as required to support a rejection under 35 U.S.C. 102(b). In particular, with reference to claim 4, Binstock does not teach causing "a brief interruption of the connection between the household current and the capacitor, whereupon a measuring signal is taken across the auxiliary winding, said measuring signal causing an alarm when it is below a preset value," as required. In Binstock, a measurement of a signal for the purpose of sounding an alarm is not triggered by a brief interruption of current, as in claim 4. Binstock relates to huge fan motors (6000 HP) for boiler systems. Such motors do not run at household voltage. The motors are two-speed, and the switch from one speed to another speed occurs by "rewiring" (col. 1, line 63) by means of switches (col.

3, lines 23-24). The speed changes occur while inlet vanes are closed (col. 5, lines 51-56) in order that undue load is not put on the motor. *At all times, the rotational speed of the motor is monitored by means of a tachometer* (col. 4, line 1) providing a "motor speed" input signal for the controller (sequencer 34) Fig. 2A. The delays described, e.g. col. 4. lines 10-18, are those traditionally associated with speed changes in Kilo-Horsepower motors, due to their huge inertia. Therefore, since every limitation of the claim is not taught by the cited reference, claim 4 is not anticipated by Binstock. Likewise, since claims 5 and 6 depend from claim 4, they are not anticipated by the teachings of Binstock for the same reasons as discussed above.

Claims 7 and 8 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,568,691 to Rubin (hereinafter "Rubin"). For the following reasons the rejection is respectfully traversed.

Every limitation of claim 7 is not taught by Rubin. Specifically, Rubin does not teach a "method for monitoring a chimney fan driven by a household current-powered asynchronous motor with an auxiliary winding and a capacitor," as claimed. Apparently, the Examiner is not considering this language as limiting claim 7, since was not addressed in the rejection. However, Applicant respectfully submits that this language in the preamble *is* limiting to the scope of the claim and should not be automatically ignored, simply because it is part of the preamble. As stated in the MPEP § 2111.02: "The determination of whether a preamble limits a claim is made on a case-by-case basis in light of the facts in each case; there is no litmus test defining when a preamble limits the scope of a claim." In claim 1, the preamble does not merely set forth the intended use or function of a structure, but rather it defines an environment including structure upon which or by which the claimed steps are performed. Moreover, as is particularly relevant in the instant case, the §2111.02 also states that "Any terminology in the preamble that limits the structure of the claimed invention *must be treated as a claim limitation*." Applicant submits, therefore, that the functional and structural limitations set forth in the preamble serve as claim limitations. Since every limitation of the claims is not taught by the cited reference, claim 7 is not anticipated by Rubin. Likewise, since claim 8 depends from claim 7, it is not anticipated by the

teachings of Binstock for the same reasons as discussed above.

Claim 9 was rejected under 35 U.S.C. 103(a) as being obvious over Rubin in view of U.S. Patent No. 6,456,024 to Schmider et al. (hereinafter "Schmider"). For the reasons set forth above with regard to claim 7, from which claim 9 depends, every limitation of claim 9 is not taught or suggested by Rubin. Further, Schmider does not disclose or suggest these limitations which are absent from Schmider. Since every limitation of the claim is not taught or suggested by the references, claim 9 is patentable over the combination of Rubin and Schmider.

Claims 10-12 were each rejected under 35 U.S.C. 103(a) as being obvious over Rubin in view of U.S. Patent No. 6,250,133 to Schell (hereinafter "Schell") and/or Schmider. For the following reasons, these rejections are respectfully traversed.

Rubin does not teach or suggest "A chimney fan system" or "a chimney fan" as required by claims 10-12. Thus, Schell is cited for teach a chimney fan.

Applicant respectfully submits that, with reference to claims 10-12, the teachings of Rubin cited by the Examiner are not at all analogous to the teachings of Schell or the claimed invention. As mentioned, claims 10-12 are directed to "A chimney fan system" and each require "a chimney fan." The disclosure of Rubin cited by the Examiner in forming this rejection has no relationship to monitoring a fan of any kind or any analogous device. Rubin certainly relates to apparatus involving a fan, but the citation col. 12, lines 31-50 and lines 50-54 relates to a device for opening the latching mechanism of the door of a tumbler drier. It is respectfully submitted that this feature is as remote from the context of the invention as may possibly occur within a single class of the U.S. Patent Classification system. Thus, the use of Rubin to render obvious a chimney fan system, as well as the combination of Rubin with the chimney fan of Schell is not proper and the rejections cannot be maintained.

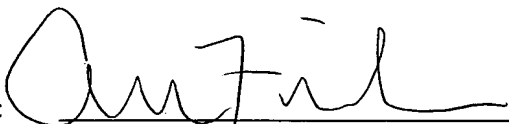
In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Appl. No. 10/693,342  
Amdt. Dated April 1, 2005  
Reply to Office action of December 1, 2004

If there are any additional fees resulting from this communication, please charge same to our  
Deposit Account No. 16-0820, our Order No. 36144.

Respectfully submitted,

PEARNE & GORDON LLP

By: 

Aaron A. Fishman, Reg. No. 44682

1801 East 9th Street  
Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700

Date: April 1, 2005